

May 3, 2013

Councilmember Sam Liccardo
200 E. Santa Clara Street, 18th Floor Tower
San Jose, CA 95113

Re: Personal Funds for Campaign Related Expenditures

Dear Councilmember Liccardo:

This letter is in response to your email to the City Attorney dated April 14, 2013 concerning Chapters 12.05 and 12.06 of the San Jose Municipal Code (SJMC) which relates to Elections and Municipal Campaign and Officeholder Contributions. We are responding to your request pursuant to SJMC Section 12.05.080 which states "that any person may request the City Attorney to provide written advice with respect to the person's duties under the provisions of Chapter 12.05 and Chapter 12.06." Specifically, you have asked whether you may lend your own funds to spend on campaign related expenses during the "black-out" period, more than the 180 days before an election.

SJMC Section 12.06.290 generally prohibits a person from soliciting or accepting any contributions from others prior to 180 days before an election. There is no such time limitation on the deposit of personal funds. SJMC 12.06.295 entitled "Deposit of personal funds into campaign bank accounts", provides in part that the Code does not prohibit a candidate from making unlimited contributions to his or her own campaign. Loans from candidates to their own campaign or campaign committee are limited under SJMC 12.06.295(D) to a total of \$20,000 at any one point in time. These funds can be deposited and expended during the blackout period. However, such expenditures will count against the voluntary expenditure limits for that election, should the candidate accept them.


It should be noted that the Fair Political Practices Commission (FPPC) requires that candidates file a statement of intention and establish a campaign bank account before making any expenditure from personal funds pursuant to Government Code Section 85201. There are no set deadlines in the SJMC in reporting expenditures. However, the SJMC provides in 12.06.910 that "each candidate and candidate controlled committee receiving contributions or making expenditures in a city election must file with the city clerk campaign disclosure statements in the form and at the times

required by Chapter 12.06 and the Political Reform Act." SJMC relies upon the times set forth by the regulations of the FPPC. This letter is intended to interpret the City's Municipal Code only. The information regarding the FFPC reporting may be found at <http://www.fppc.ca.gov/pdf/460int.pdf0>. For detailed information on campaign reporting requirements, please contact the FPPC.

We hope that this addresses your question concerning the City's Municipal Code sections on Elections and Municipal Campaign and Officeholder Contributions. Please feel free to contact our Office if you have further questions or need clarification with regard to this letter.

Very truly yours,

RICHARD DOYLE, City Attorney

By: 

Arlene F. Silva
Deputy City Attorney

c: Don Gagliardi
/afs